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PLAINTIFF WITHOUT ATTORNEY,

DR. JUMOKE O. OYEDELE, DDS,

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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHER DISTRICT OF CALIFORNIA

Honorable: Judge to be determined.

Civil Action Case No. 12-CV-04607-NC

METROPOLITAN LIFE

INSURANCE COMPANY,

Plaintiff,

v.

JUMOKE O. OYEDELE,

Defendant.

CASE NO. 12-CV-04607-NC

MOTION TO DISMISS

AND

MOTION TO STIKE EVERY

SINGLE WORD IN THE

COMPLAINT FOR RESCISSION

AND DECLARATORY RELIEF,

FOR FAILURE TO STATE A

FACTUAL CLAIM, PLAINTIFF'S

CLAIM IS WITHOUT EVIDENCE

NOR WITH ANY FACTS.

1
2 COME NOW Defendant JUMOKE O. OYEDELE, who move to dismiss the
3 Plaintiff's Complaint for Rescission and Claims for Declaratory
4 Relief in the Complaint captioned herein above, for failure to
5 state a claim pursuant to Fed. R. Civ. P. 12(b)(6).

6 The Defendant certify that, pursuant to applicable. L. Civil.
7 Rule of Court, this matter was discussed with plaintiff and
8 their employees and agents, on an insurance disability claims
9 for this same Plaintiff, DR. JUMOKE O. OYEDELE, DDS; rather
10 than pay the claims, they filed this frivolous, baseless, and
11 warrantless law suit. Plaintiff VIGOROUSLY opposes the
12 relief requested herein.

13 **PREAMBLE (S)**

14 1

15 This Prose litigant and defendant contends, that these
16 pleadings in this document provides adequate grounds of a
17 motion to dismiss that sufficiently complies with the
18 requirements of all applicable Sections of the Practice
19 Standards for Judges, at the United States District Court.
20 Because there is frivolous minimal legal argument made in this
21 particular complaint of this plaintiff, with warrantless,
22 subterfuges and obfuscations; a supporting brief is not
23 necessary. When the motion turns on more complex legal issues,
24 parties shall briefly identify the proposition of law in the
25 motion and refer to supporting authority in a separate brief.

26 2

Although compliance with Local Rule is not required for Rule 12 motions, the Court nevertheless encourages parties to confer in advance of filing to attempt to narrow the scope of issues in dispute, especially where the motion is directed at pleading deficiencies that could or could not be cured by amendment of the complaint, defendant intends to follow the dictates of the local rules of this Court, as they become mandatory to do so.

FACTS

3

The Complaint alleges two causes of action:

(i) the Plaintiff PURPORTEDLY ALLEGE Rescission;

and

(ii) Declaratory Judgment.

ARGUMENT

1. The Rescission claim;

A. Burden of proof: The Plaintiff has the burden of production to come forward with facts and evidences demonstrating a prima facie case. *St. Mary's Honor Center v. Hicks*, 509 U.S. 502 (1993).

B. Elements:

The Plaintiff must allege that:

(i) They can use obfuscations, lies, subterfuges;

(ii) That they can legally dis-honor and Insurance claim without good causes;

(iii) That they suffered an adverse effect and damages, as a result of defendant's lawful claims

(iv) That an adverse action occurred in circumstances giving rise to an inference of Rescission.

The Defendant contends that the Plaintiff has not plead sufficient facts to establish ~~the~~ any elements.

C. Elements not supported by Complaint:

The Complaint does not allege that the Plaintiff met the minimum qualification standards for the position that plaintiff is pleading.

The Complaint does not allege any facts demonstrating that the Plaintiff was entitle to RESCISSION in circumstances giving rise to an inference of RESCISSION THAT THEY SEEK.

The Complaint does not state that the Plaintiff provided any authentic facts nor evidence in support of this frivolous law suit.

3

Because the motion is brought pursuant to Fed. R. Civ. P. 12(b)(6), only the specific facts alleged in the Complaint are properly before the Court. Extended factual recitation is unnecessary and duplicative of the Complaint itself. see e.g. St. Mary's, 509 U.S. at 506, nor any other facts suggesting that the termination was in any way related to her sex.

2

What the Plaintiff's claims might be; RESCISSION AND OR DECLARATORY ;

A. Burden of proof:

The Plaintiff has the burden of proof by clear and convincing evidence. Barnett v. Denver Publishing Co., 36 P.3d 145, 147 (Colo. App. 2001).

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4 **B. Elements:**

5 To state a claim for RESCISSION under CALIFORNIA AND UNITED STATES laws,
6 a plaintiff must allege:

- 7 (i) RESCISSION statement;
8 (ii) DECLARATORY statement;
9 (iii) the existence of special damages or actionability absent special damages;
10 (iv) and actual malice. Card v. Blakeslee, 937 P.2d 846, 850 (Colo. App. 1996);
11 Barnett, 36 P.3d at 147.

12
13 The Defendant contends that the Plaintiff has not plead sufficient facts to establish
14 any and or all elements of the causes of actions.

15 **C. Elements not supported by the Complaint:**

16 The Plaintiff has not alleged that the statements plead met
17 the standards for the burdens of proofs, by any stretch of
18 imaginations.

19 Thus, even when taken as true, the alleged pleadings of
20 plaintiff is insufficient to state a claim for RESCISSION AND
21 FOR DECLARATORY RELIEF.

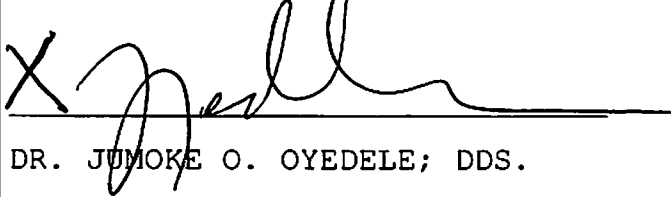
22 The Plaintiff has not alleged facts showing that the statement
23 of the pleadings were made without actual malice(s),
24 subterfuges, and obfuscations.

1 CONCLUSION

2 For the foregoing reasons the Defendants' Motion to Dismiss and
3 to stike should be granted and the Claims for Relief should be
4 dismissed.

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6 Dated: September 28, 2012.

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9 Respectfully submitted,

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12 DR. JUMOKE O. OYEDELE; DDS.

Proof of Service

I, the undersigned, declare:

I am a citizen of the United States of
America, am over the age of eighteen (18)
years, and am not a party to the within action.

My address is
2148 UNIVERSITY AVENUE,
EAST PALO ALTO, California 94303-1714.

On September 28, 2012,

I caused to be served the following
document(s):

MOTION TO DISMISS AND
MOTION TO STIKE
on the interested parties involved, enclosed in
one or more envelopes addressed as
follows:

Counsel for
PLAINTIFF
ROYAL F. OAKES,
LARRY M. GOLUB,
JAMES C. CASTLE;
BARGER & WOLEN
LLP;
633 West 5th st,
47th Floor
Los Angeles, Ca 90071
Ph.213-680-2800
Fax.213-614-7399

1 by depositing each envelope, with
2 postage fully prepaid, into the United
3 States Mail, First Class, at EAST
4 PALO ALTO, California.

5 DOCUMENT MAY ALSO BE FAXED
6 ACCORDINGLY WITH PROOF OF FAX
7
8 AS MAY BE AVAILABLE.

9 I declare under penalty of perjury
10 under the laws of the State of California that
11 the foregoing is true and correct.
12

13 Executed on September 28, 2012,
14
15 at EAST PALO ALTO, California,

16 

17 _____
Christopher F. Willemin
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